

STATE OF MAINE

SUPREME JUDICIAL COURT

Docket No. Bar 98-1

BOARD OF OVERSEERS OF THE BAR)
)
 v.)
)
 ANDREWS B. CAMPBELL)

OPINION AND ORDER

Andrews Bruce Campbell has petitioned for reinstatement to the Bar of the State of Maine, pursuant to Maine Bar Rule 7.3(j)(5). For the reasons set out below, the petition is granted on the conditions set forth herein.

BACKGROUND

Following a series of events in which Campbell was determined to have acted inappropriately or illegally, he was first convicted of criminal contempt, affirmed in *State v. Campbell*, 497 A.2d 467 (Me. 1985), and reprimanded by the Board of Overseers of the Bar, affirmed in *Board of Overseers of the Bar v. Campbell*, 539 A.2d 208 (Me. 1988). After a drug-related conviction in federal court, affirmed in *United States v. Campbell*, 874 F.2d 838 (1st Cir. 1989), Campbell was suspended from practice in the State of Maine effective December 17, 1987, and then disbarred from practice altogether, see *Board of Overseers of the Bar v. Campbell*, Bar 87-15 (July 26, 1989) (Glassman, J.). The disbarment order permitted Campbell to petition for reinstatement four years from the date of disbarment.

BOARD OF OVERSEERS OF THE BAR

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On August 13, 1993, Campbell filed his first petition for reinstatement. After hearing, a majority of a three member Grievance Commission Panel recommended reinstatement. A majority of the Board of Overseers of the Bar, however, recommended against Campbell's reinstatement after considering the Panel's Report. The petition was assigned to a single justice for hearing (*Dana J.*). A hearing was held, following which the court concluded that Campbell had failed to meet his burden of proof and denied the petition for reinstatement. The court specifically found that Campbell had engaged in a lack of candor in the course of events preceding the hearing and that he continued to have difficulties controlling his behavior. Specifically, the court found that Campbell

engaged in personal attacks against Bar Counsel and [another attorney] that were unnecessarily hostile and irrelevant to the proceeding or the question at issue. This Court finds that the manner in which they were made was disruptive and repugnant to the proceedings and evidenced a lack of respect for this process.

The court also found that Campbell's behavior during the proceedings was "often turbulent, intemperate and irresponsible." Finally, the court found that Campbell had behaved in a potentially unethical manner by threatening suit in order to obtain a positive recommendation and by other inappropriate conduct.

The court ultimately concluded that Campbell had failed to provide "clear and convincing evidence that it is likely that reinstatement will not be detrimental to the integrity and standing of the Bar, the administration of

justice, or the public interest." Campbell appealed the denial of his petition, and the full court affirmed the judgment of the single justice. See *Board of Overseers of the Bar v. Campbell*, 663 A.2d 11 (Me. 1995).

On May 15, 1998, Campbell again petitioned for reinstatement. Because of certain difficulties with a former client, Dennis Friel, and a relapse into the use of marijuana, Campbell put that petition on hold until February 28, 1999, when he filed a supplemental petition, reaffirming the information contained in his May 1998 petition and providing further supporting documentation for reinstatement.

A Panel of the Grievance Commission held a hearing on the petition in May 1999. Noting that Campbell had "never been accused of unethical conduct regarding a client or any misuse of client funds," the Panel concluded that Campbell had demonstrated that he has "the moral qualifications necessary to practice law and to be reinstated to the practice of law in Maine." It then went on to consider whether Campbell's reinstatement would be detrimental to the integrity and standing of the bar, to the administration of justice or to the public interest. It concluded that with several conditions in place, Campbell is now capable of practicing law in a fashion that is not detrimental to the integrity of the system. The Panel particularly referenced Campbell's previous use of drugs and alcohol and his previous "conduct in the courtroom, specifically, his inability to control his temper," in addressing the integrity question.

The Panel then recommended reinstatement subject to a number of conditions, including continued substance abuse therapy, attendance at a

12-step program, and random testing for drugs or alcohol. The Panel also recommended that Campbell not be allowed to open an office as a "solo" practitioner and that he practice, or share space, with an attorney who has been actively engaged in the practice of law in Maine for five or more years and who is willing to provide ongoing consultation on all business, ethical, and substantive issues without violating client confidences. Finally, the Panel recommended that the court continue its jurisdiction such that the court "may consider on an expedited basis, without the need for the Board's compliance with Maine Bar Rule 5(B) or 7(C)(1) any reported failure" by Campbell to comply with any of the conditions established by the court or other alleged violations of the Rules.

The Board adopted the findings and recommendations of the Panel and requested that the court consider several other matters. First, the Board asked that the court require the Board's prior approval of the attorney mentor/consultant. Second, the Board sought further inquiry into the drug or alcohol issues. And finally, the Board asked the court to inquire of Campbell regarding factors not specifically addressed in the Panel's report, for example, M. Bar R. 7.3(j)(5)(C).

SINGLE JUSTICE PROCEEDING

Accordingly, this matter came before the court for hearing in an essentially uncontested posture on September 28, 1999. Attorney David Whittier represented the petitioner and Attorney J. Scott Davis represented the Board. Although the parties and the court addressed all of the factors relevant to a petition for reinstatement, the primary focus of the hearing was

to assure the court that the conditions recommended by the Panel and the Board were appropriate and sufficient to address the previously identified concerns regarding Campbell's ability to conform his behavior to bar standards, and to assure that Campbell could and would comply with those conditions.

The following individuals testified: Andrews Bruce Campbell, Attorney Richard L. Barton, and Attorney Arthur Travers. On agreement of the parties, the court also spoke by phone with Attorney William Cote who was not able to be present for the hearing. Attorney Cote provided the court with information and recommendations on substance abuse issues related to practicing attorneys.

FINDINGS AND CONCLUSIONS

Based on the findings and recommendations of the Panel, the recommendations and argument of the Board, and the evidence and argument presented by Campbell, the following findings are made.

Andrews Bruce Campbell has not in the past, and does not now, present a risk to his clients resulting from any misuse of client funds, client information or client trust. He has been, and could be again, an energetic advocate for his clients. He has been willing to represent clients who may not easily find attorneys willing to represent them.

Campbell has made significant efforts to address the problems that resulted in the loss of his ability to practice law in Maine. He has remained clean and sober for many months. His most recent lapse was more than a year ago. He understands that he must abstain from the use and abuse of

drugs and alcohol, and he is willing to comply with the conditions set by the court to assure his continued sobriety. His personal life is more stable. He is happily married, and his wife supports his sobriety. He has disentangled his life from a former client, Dennis Friel, with whom Campbell previously engaged in drug use and for whom Campbell engaged in conduct considered outrageous and unprofessional in the courtroom.

He appears to have a greater understanding of his own limitations and tendencies toward intemperate behavior. That understanding is less than complete, however, as evidenced by Campbell's first proposal to establish his own practice, alone in an office, and to "consult" regularly with one or two practitioners who have limited practices (one of whom has already "wound-down" his practice in order to retire). These proposals, although necessitated in part by the dearth of attorneys willing to associate with Campbell as a result of his unfortunate history, demonstrate a continuing underestimation of his need for frequent consultation with an experienced attorney able to provide consistent and firm advice in matters of tone, perspective, and appropriate advocacy.

Addressing specifically the factors set out at M. Bar Rule 7.3(j)(5), the following findings are made by clear and convincing evidence:

1. Regarding prior disciplinary orders, Campbell was fully disbarred in 1989. No specific orders have been in place since that time.

2. Campbell has acted as a paralegal in several law offices during his period of disbarment. Although some of the activities of a paralegal may risk crossing the line into the practice of law, there was no evidence presented that Campbell engaged in or attempted to engage in the unauthorized practice of law, and

Campbell testified that he made every effort to assure that he did not do so. The court finds that testimony credible.

3. As noted above, Campbell has made great strides in recognizing the wrongfulness and seriousness of his conduct. He must continue in his efforts to understand what behavior is acceptable.

4. Although Campbell was found to have engaged in unprofessional conduct by the single justice hearing his first petition for reinstatement, this court concludes that in the five years since that hearing, Campbell has not engaged in further professional misconduct, and that the five-year period meets the requirement of the rule.

5. No further instances of dishonesty have occurred since the 1994 order of the single justice. This also meets the requirement of the rule.

6. Campbell has kept himself informed on developments in the law and clearly possesses the intelligence, ability, and competence to practice law.

Further, to the extent that the provisions of 4 M.R.S.A. § 805-A(2)(A)(1) apply to the petition before the court, the court finds that a reasonable amount of time has passed since Campbell's conviction for conspiracy and possession with intent to distribute drugs in August of 1987, that Campbell has completed his sentence, and that he has provided evidence of "complete rehabilitation" for purposes of this provision.¹

This brings the court to the heart of the matter: has Campbell demonstrated by clear and convincing evidence that reinstatement will not be detrimental to the integrity and standing of the Bar, the administration of justice, or the public interest? All other factors having been demonstrated

1. Rehabilitation of a person addicted to drugs or alcohol is never really "complete" in terms of substance abuse control. That person may always be at risk of relapse unless a lifetime commitment to sobriety is both made and followed by the individual.

to the satisfaction of court, the remaining question is whether Campbell can return to the active practice of law without returning to his prior conduct. It is clear that Campbell's tendency to attack others, including opposing counsel and various judges, rather than to apply his considerable intellect to the substance of the dispute at hand has caused Campbell and the system of justice within which he desires to work much grief. As the full court said in 1995, Campbell "will need clear and convincing evidence that he has altered his pattern of responding with unwarranted attack on anyone who opposes his goals." *Board of Overseers of the Bar v. Campbell*, 663 A.2d at 14.

Campbell's conduct during the proceedings on this occasion was markedly different from conduct described in past proceedings. He was respectful of the court and opposing counsel. He demonstrated patience in the face of delay, and he did not respond inappropriately when the court rejected his first proposal. During his testimony, he appeared to be responding openly and honestly about his past problems. He responded to questions put to him directly from the court in a thoughtful manner.

The one concern that the evidence raised was Campbell's tendency to minimize what the court considers the real difficulties he will face in returning to practice. Given the scrutiny likely to accompany his return to practice, the reality is that he will be expected to behave in an exemplary manner. He must not "rise to the bait" of others in resolving disputes and he must remain courteous and controlled in his responses to adversity. On

the other hand, he must be able to advocate affirmatively for his clients. This balance may be harder for Campbell to find than he expects.

Campbell's energy and enthusiasm for the practice of law and for the full representation of his clients are much needed in the Bar. If his energy and intelligence are put to the use of addressing the substance of his client's needs, he will be a benefit to his clients, the public, and the administration of justice. He must, however, be able to control his zeal and to curb his tendency to be suspicious of the motives of others in the system. Finding a balance in pursuit of advocacy will be his greatest challenge.

Having considered all of the evidence, and particularly having had an opportunity to observe Campbell's responses to the questions presented at hearing, this court finds that Campbell has demonstrated by clear and convincing evidence that his return to the practice of law will not be detrimental to the integrity and standing of the Bar, the administration of justice, or the public interest, if he complies with the Bar Rules and the following conditions in full:

1. Campbell shall completely abstain from the use of alcohol and any illegal drugs, and from any excessive use of nonprescription mood altering drugs.

2. Campbell shall submit to random chemical testing to assure that he is complying with the above condition. He shall cooperate fully in a program administered by a provider approved by the Board, which provider shall have no professional, financial, or other connection with Campbell's counselors or therapists. The results of the first such tests shall be provided to the office of Bar Counsel within 45 days of the date of this order. The random testing shall occur no less often than monthly and shall continue for at least 18 months from the date of this order, unless extended by order of the court or agreement of the parties.

3. Campbell shall regularly attend and participate in a 12-step program to address substance abuse. During the first 18 months following the date of this order, he shall provide an affidavit to the Board no less often than monthly describing his attendance at meetings and conferences with his sponsor and with volunteer recovering attorneys. For the following two years, he shall provide such an affidavit no less than quarterly.

4. Campbell shall continue in individual therapy to address substance abuse and behavior control issues. He shall submit an affidavit to the Board detailing his attendance in counseling no less often than quarterly during the 18 months following the date of this order.

5. Campbell shall not engage in the practice of law as a sole practitioner unless and until allowed by order of the court. He shall work either:

(a) as an employee or partner to an attorney who has been actively engaged in the private practice of law in Maine for at least five years and is currently engaged in private practice full time; or

(b) in an office sharing arrangement with an attorney who has been actively involved in the private practice of law in Maine for at least five years and is currently engaged in private practice full time, and who is willing to provide consistent ongoing consultation to Campbell on matters of ethics, business practice, substantive issues, tone, and interactions with other members of the bar and the bench.

The attorney mentor/supervisor/partner shall meet the Board's approval. The new proposal submitted by Campbell, that is, the proposal that he undertake an office sharing and consultation arrangement with Attorney James Strong, does meet the approval of the Board and the court. Should that arrangement cease to work or should Campbell wish to make alternate arrangements, any proposed change shall be presented to the Board and shall not be undertaken unless approved by the Board or the court. The assisting attorney shall submit reports to Bar Counsel no less often than quarterly during the 18 months following the date of this order, except that the first report shall be due no later than 60 days after the office sharing arrangement begins.

6. In the event that there is:

(a) any allegation or report of Campbell's failure to comply with any condition set forth herein;

(b) any report of facts from which a reasonable person might conclude that Campbell has used alcohol or any illegal drug, or has used any nonprescription mood altering drug to excess; or

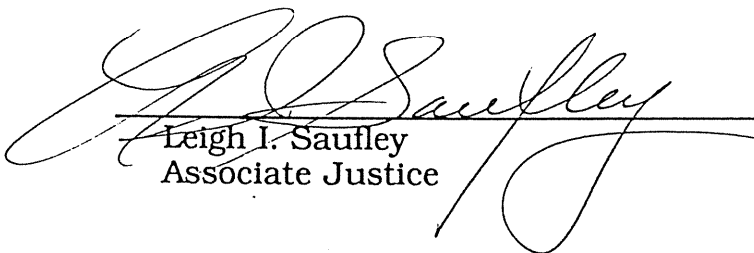
(c) any complaint against Campbell alleging a violation of any Maine Bar Rule

this court will consider the allegations on an expedited basis without the need for the Board to comply with Maine Bar Rule 5(B) or 7(C)(1).

CONCLUSION

On the conditions set forth above, Andrews Bruce Campbell's petition for reinstatement to the Bar of the State of Maine is hereby granted. The Board shall submit its bill of costs within 30 days.

Dated: October 19, 1999


Leigh I. Saufley
Associate Justice

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